

State of California
BOARD OF EQUALIZATION
SALES AND USE TAX REGULATIONS

Regulation 1586. WORKS OF ART AND MUSEUM PIECES FOR PUBLIC DISPLAY.

Reference: Sections 6365 and 6366.3, Revenue and Taxation Code.

(a) GENERAL.

(1) **ORIGINAL WORK OF ART.** Tangible personal property which is an original work of art and which is purchased by or for donation to certain public or nonprofit organizations for the purpose of display to the public in museums or public places is exempt from the sales and use taxes under certain conditions.

(2) **MUSEUM PIECES.** Tangible personal property purchased by certain organizations to replace museum pieces which were destroyed by a calamity are exempt from the sales and use taxes under certain conditions.

(b) DEFINITIONS.

(1) "Original Work of Art" for purposes of this regulation means tangible personal property which has been created as a unique object intended to provide aesthetic pleasure to the beholder and/or to express the emotions of the artist. The form in which an original work of art is presented includes but is not limited to:

(A) visual art, e.g., a drawing, painting, mural, fresco, sculpture, mosaic, film, or photograph, a work of calligraphy, a work of graphic art (an etching, lithograph, offset print, silk screen, or a work of graphic art of like nature),

(B) crafts, e.g., crafts in clay, textile, fiber, wood, metal, plastic, glass, and like materials, or

(C) mixed media, e.g., a collage, assemblage, or any combination of the foregoing art media.

(2) "Museum" for purposes of this regulation means a place specifically designated for display of artifacts or objects of art which either:

(A) has a significant portion of its display space open to the public without charge during its normal operating hours;

(B) has its entire display space open to the public without charge for at least six of its normal operating hours during each month of operation; or

(C) has its entire display space open without charge to a segment of the student or adult population for educational purposes.

(c) APPLICATION OF TAX.

(1) **ORIGINAL WORKS OF ART.**

(A) Tax does not apply to the sale or use of original works of art which are purchased by:

1. this state, or any city, county, city and county, or other local governmental entity in this state;
2. any nonprofit organization which operates a public museum under contract for such governmental entity;
3. any nonprofit organization qualifying for exemption from state income tax pursuant to Section 23701d of the Revenue and Taxation Code. The works of art must be purchased for display in a museum either operated by the purchaser or by another nonprofit organization which qualifies for exemption pursuant to Section 23701d. The museum in which the art is displayed must be open to the public regularly for not less than 20 hours per week and for not less than 35 weeks of the calendar year; or

4. any person for donation to the above governmental entities or nonprofit organizations. To qualify for exemption from the tax under this subparagraph, donated works of art must be delivered by the retailer of the

Regulation 1586. (Continued)

art directly to the donee pursuant to the instructions of the buyer-donor. Written evidence of transfer of title to the works of art from the buyer-donor to the donee must be maintained by the retailer and the buyer-donor to support the exemption.

(B) The exemption provided by paragraph (c) (1) applies only to original works of art which are purchased to become part of the permanent collection of any of the following:

1. a museum;
2. a nonprofit corporation which (1) has qualified for exemption from the state income tax pursuant to Revenue and Taxation Code Section 23701d, (2) regularly loans not less than 85 percent of the value of its collection of works of art to one or more museums, and (3) is required by its articles of incorporation to loan its works of art and is otherwise prohibited by its articles from making any private use of its works of art. The works of art for which the exemption is claimed pursuant to this subparagraph must be placed on display at a museum in California for not less than 24 months during the three-year period commencing from the date of purchase; or
3. Operative January 1, 1988, this state and any city, county, city and county, or other local governmental entity in this state for display to the public in buildings, parks, plazas, or other places which are open to the public without charge for not less than 20 hours per week and for not less than 35 weeks of the calendar year.

(2) MUSEUM PIECES.

(A) Tangible personal property is exempt from the sales and use tax if purchased to replace destroyed objects of a museum's permanent collection when such property is purchased by:

1. a nonprofit museum regularly open to the public and operated by or for a local or state government entity,
2. a nonprofit museum regularly open to the public and operated by a nonprofit organization which has qualified for exemption from the state income tax pursuant to Section 27301d of the Revenue and Taxation Code, or
3. operative January 1, 1988, this state or any local governmental entity in this state as part of a public art collection for display in a space which is open to the public without charge.

(B) To qualify for the exemption, the property must be purchased and used exclusively for display purposes. However, the property purchased does not need to be similar in character to the property it is replacing. The exemption does not extend to display cases, shelving, lamps, lighting fixtures, or other items of tangible personal property utilized in the operations of the museum. The purchased property must be:

1. purchased to replace property which has been physically destroyed by fire, flood, earthquake, or other calamity,
2. purchased within three years from the date of the calamity, and
3. the aggregate amount of property purchased must not exceed the value of the property destroyed on the date the calamity occurred.

(d) RECORDS. Records must be maintained to substantiate any claim of exemption pursuant to this regulation. Such records must include, but are not limited to, documents indicating the name of the purchaser, the date of purchase, the purchase price, the date the property was first brought into this state (if applicable), and the dates and locations the work of art was on display at a museum.

History: Adopted November 16, 1988, effective January 28, 1989. Adopted Regulation 1586 to exempt from tax certain purchases of public art by this state or any local governmental entity for display to the public in public places as specified.

Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.